

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

BUNGIE, INC., a Delaware)	
corporation,)	
)	
)	No.2:21-cv-0811 TSZ
)	
Plaintiff,)	VOL. I
)	(Confidential)
v.)	
)	
AIMJUNKIES.COM, a business of)	
unknown classification; PHOENIX)	
DIGITAL GROUP LLC, an Arizona)	
limited liability company;)	
JEFFREY CONWAY, an individual;)	
DAVID SCHAEFER, an individual;)	
JORDAN GREEN, an individual; and)	
JAMES MAY, an individual,)	
)	
Defendants.)	

ZOOM DEPOSITION UPON ORAL EXAMINATION
OF
EDWARD KAISER

Tuesday, October 4, 2022
8:59 a.m.

Reported. By: Deanna M. Ellis, CCR No. 2511

1 A. That refers to, in the Windows operating
2 system, the hard drive that that file is located on.

3 Sorry. Let me correct myself. The viral drive,
4 not necessarily a hard drive, but the resource that that
5 file is located on.

6 Q. Now, if we look at that file path, c:/users,
7 doesn't that refer to it's on the C drive of a
8 particular machine? It's in a first file name users.
9 The sub-file of that, user name James. And it's located
10 on the desktop of James' computer. Isn't that a fair
11 interpretation of what we're looking at in Column 3, Row
12 3 of this exhibit?

13 A. No.

14 Q. No? What does that refer to?

15 A. It refers to a file path.

16 Q. And you have no idea what that file path might
17 be?

18 A. I see the file path written in front of me.

19 Q. And you've told me you have a Ph.D. in
20 computer technology. Can you tell me what that file
21 path means?

22 MR. RAVA: Object to the form.

23 A. I did not tell you I have a Ph.D. in computer
24 technology.

25 Q. Okay. Do you understand how computer files

1 are put together? If you don't, that's fine, too.

2 MR. RAVA: Object to the form.

3 A. What do you mean, "put together"?

4 Q. What I mean is does the c:\users\James\desktop
5 mean anything to you?

6 A. There is some information contained there, but
7 no. Otherwise, it doesn't mean anything to me.

8 Q. But that does not tell you that is a -- that
9 appears on the desktop of James May's computer?

10 A. May or may not.

11 Q. It may or may not? So you don't know. So if
12 we get to trial and I start asking about this, you will
13 not be the man who's going to tell us what all this
14 means, correct?

15 MR. RAVA: Object to form.

16 A. I've told you what this means.

17 Q. And, as I understand it, you say this does not
18 refer to the desktop on the C drive of Mr. May's
19 computer?

20 MR. RAVA: Object to the form.

21 A. This is a file path. It is a string of
22 characters that describes the structure of folders and a
23 file name of a file that when executed attached to
24 Destiny 2.

25 Q. Why would Bungie collect this data if they do

1 not know what to do with it or they don't know what it
2 means?

3 A. As I told you earlier, this file attached to
4 Destiny 2 and was attempting to reverse engineer the
5 game.

6 Q. Now, I understand the file was attempting to
7 reverse engineer the game. So you do know what that
8 file does?

9 A. A process was created when that file was run,
10 when it's reverse engineering the game.

11 Q. Now, is that file located on Mr. May's
12 computer?

13 A. I don't know.

14 Q. Would the cheat software be resident on the
15 Bungie computers?

16 A. No.

17 Q. So if it's not on the Bungie computers, where
18 else could it be?

19 A. It could be on a network device. It could be
20 on a USB key. There's lots of possibilities.

21 Q. But those would be operated by Mr. May. This
22 wouldn't be on a network device operated by Bungie,
23 would it?

24 A. No. Bungie is not in the market for making
25 cheat software, reverse engineering tools.

1 Q. Okay. So if it's on a network device, it
2 would be on a network device operated by Mr. May?
3 Wouldn't that be the reasonable assumption?

4 A. You could say that, I guess.

5 Q. Okay. And isn't it a fact, again, that Bungie
6 is collecting data that is resident on one or more
7 devices operated by Mr. May?

8 A. Can you repeat the question, please.

9 Q. Isn't it reasonable to assume that Bungie is
10 collecting data that is resident on one or more devices
11 that are being operated by Mr. May?

12 A. No.

13 Q. Well, you've already told me that they aren't
14 being operated by Bungie, correct?

15 A. Correct.

16 Q. Okay. Who else could they be operated by?

17 A. This machine in question could be operated by
18 any of the other named defendants, I suppose.

19 Q. Even though it says James?

20 A. Sure.

21 Q. Now, let's go to the account ID that we see in
22 Column 1. I won't read it off, but it stars out 4611
23 and it ends in 788.

24 Do you know what that account ID number refers to?

25 A. I do not see an account ID that ends in 788.

1

2

C E R T I F I C A T E

3

STATE OF WASHINGTON)

) ss

4

COUNTY OF SNOHOMISH)

5

6 I, the undersigned Washington Certified Court
7 Reporter, pursuant to RCW 5.28.010, authorized to
administer oaths and affirmations in and for the State
of Washington, do hereby certify:

8

9 That the foregoing deposition consisting of
pages 1 through 235 of the testimony of each witness
named herein was taken stenographically before me and
reduced to typed format under my direction;

10

11 I further certify that according to CR 30(e)
the witness was given the opportunity to examine, read
and sign the deposition after same was transcribed,
12 unless indicated in the record that review was waived;

13

14 I further certify all objections made at the
time of said examination to my qualifications or manner
of taking the deposition or to the conduct of any party
have been noted by me upon each said deposition;

15

16 I further certify that I am not a relative or
employee of any such attorney or counsel, and that I am
not financially interested in the action or the outcome
17 thereof;

18

19 I further certify that each witness before
examination was by me duly sworn to testify the truth,
the whole truth, and nothing but the truth;

20

21 I further certify that the deposition, as
transcribed, is a full, true and correct transcript of
the testimony, including questions and answers, and all
objections, motions, and exceptions of counsel made and
taken at the time of the foregoing examination and was
prepared pursuant to the Washington Administrative Code
22 308-14-135, the transcript preparation format
23 guidelines;

24

25 I further certify that I am sealing the
deposition in an envelope with the title of the above
cause and the name of the witness visible, and I am
cause and the name of the witness visible, and I am

1 delivering the same to the appropriate authority;

2 I further advise you that as a matter of firm
3 policy, the Stenographic notes of this transcript will
4 be destroyed three years from the date appearing on the
Certificate unless notice is received otherwise from any
party or counsel hereto on or before said date;

5 IN WITNESS WHEREOF, I have hereunto set my
6 hand and affixed my official seal this 19th day of
October, 2022.

6

7

Deanna M. Ellis, CCR
Washington State Certified
Court Reporter
License No. 2511

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

Bungie, INC., a Delaware)	
corporation,)	
)	
)	No.2:21-cv-0811 TSZ
)	
Plaintiff,)	30(b)(6)
)	(Confidential)
v.)	
)	
AIMJUNKIES.COM, a business of)	
unknown classification; PHOENIX)	
DIGITAL GROUP LLC, an Arizona)	
limited liability company;)	
JEFFREY CONWAY, an individual;)	
DAVID SCHAEFER, an individual;)	
JORDAN GREEN, an individual; and)	
JAMES MAY, an individual)	
)	
Defendants.)	

ZOOM DEPOSITION UPON ORAL EXAMINATION
OF
EDWARD KAISER

Wednesday, October 5, 2022
11:22 a.m.

Reported. By: Deanna M. Ellis, CCR No. 2511

1 stuff. My understanding was that some of the
2 information you get regarding a user is information that
3 is provided by Windows. I believe it's a Windows API
4 function.

5 Does that make sense?

6 A. I believe that is the case.

7 Q. So can that Windows API function connect to,
8 basically, anything on a user's computer.

9 MR. RAVA: Object to the form and, I
10 guess, topic.

11 You can answer.

12 A. I believe one of the parameters to the
13 function is a handle. So if you have a valid handle you
14 could reference any other process that had --

15 Q. So if I'm using the Windows' API function, do
16 I provide the handle or does Windows provide the?
17 Handle.

18 A. The handle came from Windows.

19 Q. So did Windows provide you with a handle to
20 link to or associates with the cheat software?

21 A. There's another API call in which you would be
22 able to query all the handles of processes that are
23 attached to your process. It can enumerate all the
24 processes that have attached to and manipulated your
25 processes.

1 Q. And if I'm Bungie, how do I determine what
2 those handles are?

3 MR. RAVA: I think with that question,
4 it starts to get into specific sort of investigatory
5 techniques that I think get into highly confidential
6 material.

7 MR. MANN: Okay. Well, that's fair
8 enough. In fact, I think we've already covered this
9 before. We don't need to use our limited time on
10 something we've already covered.

11 Q. Let's move on. Category 6 of the deposition
12 notice we provided said, when, how, and where Bungie,
13 Inc. first inspected, disassembled, decompiled, reverse
14 engineered, tested, or otherwise examined any cheat
15 software products accused of violating, in any way,
16 the -- Bungie in this action.

17 I know we had an extensive discussion earlier about
18 the person that looked into this stuff.

19 Have we covered everything that that person did,
20 would you say?

21 A. I believe so. They ran the software once, as
22 far as I know.

23 Q. Did they ever disassemble the software?

24 A. I don't believe.

25 Q. Did they ever decompile the software?

1 A. I don't believe so.

2 Q. Did they ever reverse engineer the software?

3 A. I don't believe so.

4 Q. Did they ever run any tests on the software?

5 By tests, I mean something other than simply run the
6 software for its intended purpose?

7 A. Not that I know of.

8 MR. RAVA: Mr. Mann, just for the
9 record, I would like to state that we printed a copy of
10 the 30(b)(6) notice, and it is close to Dr. Kaiser.

11 MR. MANN: So he has -- I'm glad. Yeah.
12 I didn't make this one of the exhibits. I've got a copy
13 of it myself.

14 But, Dr. Kaiser, if you have a copy in front of
15 you, you're certainly welcome to read it and follow
16 along with me. That might actually make it easier.

17 No objection from me.

18 MR. RAVA: But I did want to make that
19 clear. He's looking at -- otherwise, he's just looking
20 at the screen, but there is a printout of the 30(b)(6)
21 notice available to him.

22 MR. MANN: No. That's not a problem.
23 And, actually, you're making my job easier. I
24 appreciate it.

25 In thinking a little more, I would have designated

1 this as an exhibit.

2 Q. But, Dr. Kaiser, you're certainly free to
3 refer to the document in front of you. In fact, I would
4 encourage you to do so.

5 So let's move onto Category 7. I believe that
6 appears on Page 5 of the Notice of Deposition.

7 A. Okay.

8 Q. And I think this is stuff that we've already
9 covered. As you can probably guess, our contention is
10 the defendants, with the exception of Mr. May, never
11 agreed to or otherwise found themselves bound by the
12 LSLA. I understand that Bungie disagrees with us on
13 that.

14 But, again, is there anything further you want to
15 tell me about in that regard that we haven't previously
16 discussed? And what I mean by this is I'd like to know
17 all grounds, all factual allegations upon which Bungie
18 states that the defendants, with the exception of
19 Mr. May, are somehow bound by the LSLA?

20 A. I believe that is primarily the connecting to
21 Destiny and signing into an account.

22 Q. Signing into an account. And, again, my
23 understanding is those records have been provided to us?

24 A. I believe so.

25 Q. Thank you.

1

2

C E R T I F I C A T E

3

STATE OF WASHINGTON)

) ss

4

COUNTY OF SNOHOMISH)

5

6

I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010, authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

8

9

That the foregoing deposition consisting of pages 1 through 132 of the testimony of each witness named herein was taken stenographically before me and reduced to typed format under my direction;

10

11

I further certify that according to CR 30(e) the witness was given the opportunity to examine, read and sign the deposition after same was transcribed, unless indicated in the record that review was waived;

12

13

I further certify all objections made at the time of said examination to my qualifications or manner of taking the deposition or to the conduct of any party have been noted by me upon each said deposition;

14

15

16

I further certify that I am not a relative or employee of any such attorney or counsel, and that I am not financially interested in the action or the outcome thereof;

17

18

I further certify that each witness before examination was by me duly sworn to testify the truth, the whole truth, and nothing but the truth;

19

20

I further certify that the deposition, as transcribed, is a full, true and correct transcript of the testimony, including questions and answers, and all objections, motions, and exceptions of counsel made and taken at the time of the foregoing examination and was prepared pursuant to the Washington Administrative Code 308-14-135, the transcript preparation format guidelines;

21

22

23

I further certify that I am sealing the deposition in an envelope with the title of the above cause and the name of the witness visible, and I am cause and the name of the witness visible, and I am

24

25

1 delivering the same to the appropriate authority;

2 I further advise you that as a matter of firm
3 policy, the Stenographic notes of this transcript will
4 be destroyed three years from the date appearing on the
Certificate unless notice is received otherwise from any
party or counsel hereto on or before said date;

5 IN WITNESS WHEREOF, I have hereunto set my
6 hand and affixed my official seal this 23rd day of
October, 2022.

6

7

Deanna M. Ellis, CCR
Washington State Certified
Court Reporter
License No. 2511

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBIT 3

FILED UNDER SEAL

EXHIBIT 4

FILED UNDER SEAL

EXHIBIT 5

From: Phil Mann <phil@mannlawgroup.com>
Sent: Wednesday, November 09, 2022 3:30 PM
To: Marcelo, Christian W. (SEA)
Cc: Rava, William C. (SEA); Dini, Jacob (SEA)
Subject: Re: Bungie, Inc. v. AimJunkies.com, et al., No. 2:21-cv-811-TSZ - Expert Report Deadline

Thanks Christian,

We cannot agree to extend the expert disclosure deadline at this time, nor can we agree to any extension of discovery. This case has been pending for nearly one-and-one-half years, and its existence has had a profoundly deleterious effect on my clients' business and their personal lives. It needs to be resolved and brought to a conclusion as quickly as possible.

If Bungie is willing to engage in meaningful settlement negotiations to bring all matters to an end, we are more than willing to speak. However we cannot agree to have this cloud hang over the defendants' heads any longer than the current schedule allows.

All the best,

Phil

On 11/9/22 3:17 PM, Marcelo, Christian W. (SEA) wrote:

Phil – bringing this to the top of your inbox. Let us know if Defendants agree to extending the expert report deadline.

Thanks,

Christian

Christian Marcelo | Perkins Coie LLP

D. +1.206.359.3315

From: Marcelo, Christian W. (SEA)
Sent: Tuesday, November 8, 2022 3:12 PM
To: Phil Mann <phil@mannlawgroup.com>
Cc: Rava, William C. (SEA) <WRava@perkinscoie.com>; Dini, Jacob (SEA) <JDini@perkinscoie.com>
Subject: Bungie, Inc. v. AimJunkies.com, et al., No. 2:21-cv-811-TSZ - Expert Report Deadline

Phil,

We're writing regarding the upcoming deadline to exchange expert reports on November 21. Given the pending potential counterclaims which, if they remain, will require expert analysis and reports, we propose agreeing to push the expert report deadline to 30 days after the pleadings are finalized (either after the motion is granted and no amendment is allowed, or after Bungie files its answer to any

remaining or amended claims). Depending on the timing of Judge Zilly's ruling, the other discovery deadlines may need to be moved as well. We're happy to address those now, or wait to see if it's necessary based on the timing/substance of the order.

Given the pending deadline, please let us know by Thursday morning if Defendants agree to this extension.

Best,

Christian

Christian Marcelo | Perkins Coie LLP

1201 Third Avenue Suite 4900

Seattle, WA 98101-3099

D. +1.206.359.3315

F. +1.206.359.4315

E. CMarcelo@perkinscoie.com

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.